IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 27TH NOVEMBER 2007 / 6TH AGRAHAYANA 1929

WP(C).No. 35037 of 2007(U)

PETITIONER:

BABAN ANTONY, KURISSINKAL HOUSE,
NO.119, JAWAHAR COLONY, ERANGIPALAM P.O.,
NEAR SALES TAX COMPLEX, KOZHIKODE.

BY ADV. SRI.ANIL THOMAS(T)
SMT.K.V.RESHMI

RESPONDENTS:

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1. THE SOUTH INDIAN BANK LTD, TEETEE COMPLEX
JAIL ROAD, KOZHIKODE, REP. BY ITS MANAGER

2. THE SOUTH INDIAN BANK LTD. , REP. BY ITS
CHIEF MANAGER, KOZHIKODE REGIONAL OFFICE,
C.C.1/1170/B, K.U.D.F.C. BUILDING, WEST HILL,
KOZHIKODE.

3. THE SOUTH INDIAN BANK LTD.,
P.B.NO.28, T.B.ROAD, THRISSUR,
REP. BY ITS GENERAL MANAGER.

BY ADV. SRI.K.K.JOHN,SC,SOUTH INDIAN BANK

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J

W.P.(C). 35037/2007

Dated this the 27th day of November, 2007

JUDGMENT

Securitization proceedings have been initiated against the mortgaged property of the petitioner. The prayer that is made is for time to enable the petitioner to discharge the liability and to avoid distress sale. The learned counsel for the Bank submits that after availing of the loan for Five Lakhs Rupees, petitioner had repaid only Six Thousand rupees and that notice was issued under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, as early as on 13.12.2005, but nothing has been paid till date. It is submitted that property is on the verge of being taken over by the Bank and that it is at that stage, this writ petition has been filed by the petitioner.

2. Counsel also points out that as on 7.11.2007, the amount due from the petitioner is Rs.6,61,081/-. On this basis, it is contended that there is no bonafides deserving

an order being passed in favour of the petitioner. Irrespective of the disputes that are raised by the counsel for the Bank, since the petitioner desires, I feel that he should be given yet another opportunity to save the property from a distress sale. Though the petitioner sought three months time to discharge the liability, I am not prepared to direct the Bank to keep its hands off without any payment being made by the petitioner.

3. In such circumstances I think the petitioner can be given the instalment facility subject to conditions. Accordingly, I dispose of this writ petition with the following directions:-

4. Within one week from today, the petitioner shall pay ¼th of the amount indicated in Ext.P7 notice under Section 13(4) of the Act. Subject to the remittance as above, further proceedings pursuant to Ext.P7 shall be kept in abeyance. Thereafter the balance due from the petitioner will be repaid to the Bank in five equal

monthly instalment commencing from 1st January, 2008 and subsequent instalment will be payable on 1st of every succeeding month. On payment as directed above, further action on the impugned notice shall be deferred and if default is committed by the petitioner in paying any one of the instalments, the Bank will be free to proceed without further notice.

ANTONY DOMINIC
Judge

mrcs